

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

June 9, 2011

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Hawai'i

**Forfeiture of General Lease No. S-3606, Hilo Kala, Inc., Lessee, Waiakea,  
South Hilo, Hawaii, Tax Map Key: 3<sup>rd</sup>/2-2-50:96.**

PURPOSE:

Forfeiture of General Lease No. S-3606, Hilo, Kala, Inc., Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lot 28, Kanoelehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/2-2-50:96, as shown on the attached map labeled Exhibit A.

AREA:

15,000 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

For the first 5 years, for the same business use in which the Lessee was engaged at the time of the natural disaster; provided that the Lessee may use for uses other than wholesaling and retailing of truck and trailer parts and body manufacturing with the prior written consent of the Board.

TERM OF LEASE:

55 years, commencing on January 16, 1961 and expiring on January 15, 2016.

ANNUAL RENTAL:

\$17,100.00 due in semi-annual payments.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-3606, Hilo Kala, Inc., Lessee, was served a Notice of Default by certified mail dated February 28, 2011 for:

**X**    **Failure to keep lease rental payments current**

\_\_\_    Failure to post required performance bond

\_\_\_    Failure to post required fire insurance policy

\_\_\_    Failure to post required liability insurance policy

\_\_\_    Other: \_\_\_\_\_

Said notice, accepted by the Lessee on March 10, 2011, offered the Lessee a sixty-day cure period to correct the default. This cure period expired on May 10, 2011. As of May 26, 2011, this breach has not been cured.

A letter including a draft of this submittal was sent to the Lessee on May 19, 2011 advising them that staff will be recommending the cancellation of General Lease No. S-3606 to the Board of Land and Natural Resources at the next regularly scheduled meeting.

As of May 26, 2011, the current status of all lease compliance items is as follows:

**RENT:** The Lessee has a rental delinquency of \$8,550.00 for the time period from January 16, 2011 to July 15, 2011.

**INSURANCE:** The Lessee has posted the required liability and fire insurance policies.

**PERFORMANCE BOND:**  
The Lessee has posted the required performance bond. This bond is in the form of a CD.

**NOTICE OF DEFAULTS:**

<b>DATE</b>	<b>DEFAULT</b>	<b>CURED</b>
10/04/10	Performance Bond	Yes
7/14/10	Insurance (liability)	Yes
4/04/10	Insurance (liability)	Yes
7/31/09	Rent	Yes
7/31/09	Performance Bond	Yes
7/01/09	Insurance (liability)	Yes

All previous defaults were cured prior to the expiration date of the notice.

On January 13, 1961 General Lease No. S-3606 was issued to Hilo Equipment and Manufacturing Co., Ltd. as a result of Act 4, First Special Session, 1960 which authorized the leasing or leasing with option to purchase of public lands to victims of natural disaster through direct negotiation for other than residential or agricultural purposes.

At its meeting of May 27, 1961, under Agenda Items F-1-c, the Board of Land and Natural Resources approved the assignment of GL S-3606 from Honolulu Iron Works Company, successor in interest to Hilo Equipment and Manufacturing Co., Ltd., Assignor, to Hilo Kala, Inc., Assignee. On September 23, 1966, the Chairperson consented to the sublease of a portion of the property to Truck & Trailer Service, Inc.



The Lessee has been utilizing the property for the same purpose for which the lease was issued (wholesaling and retailing of truck and trailer parts and body manufacturing).

The Lessee has informed HDLO staff that they intend to sell their interest in the property and assign the lease. As of the date of this submittal, no formal request for assignment has been received.

RECOMMENDATION: That the Board:

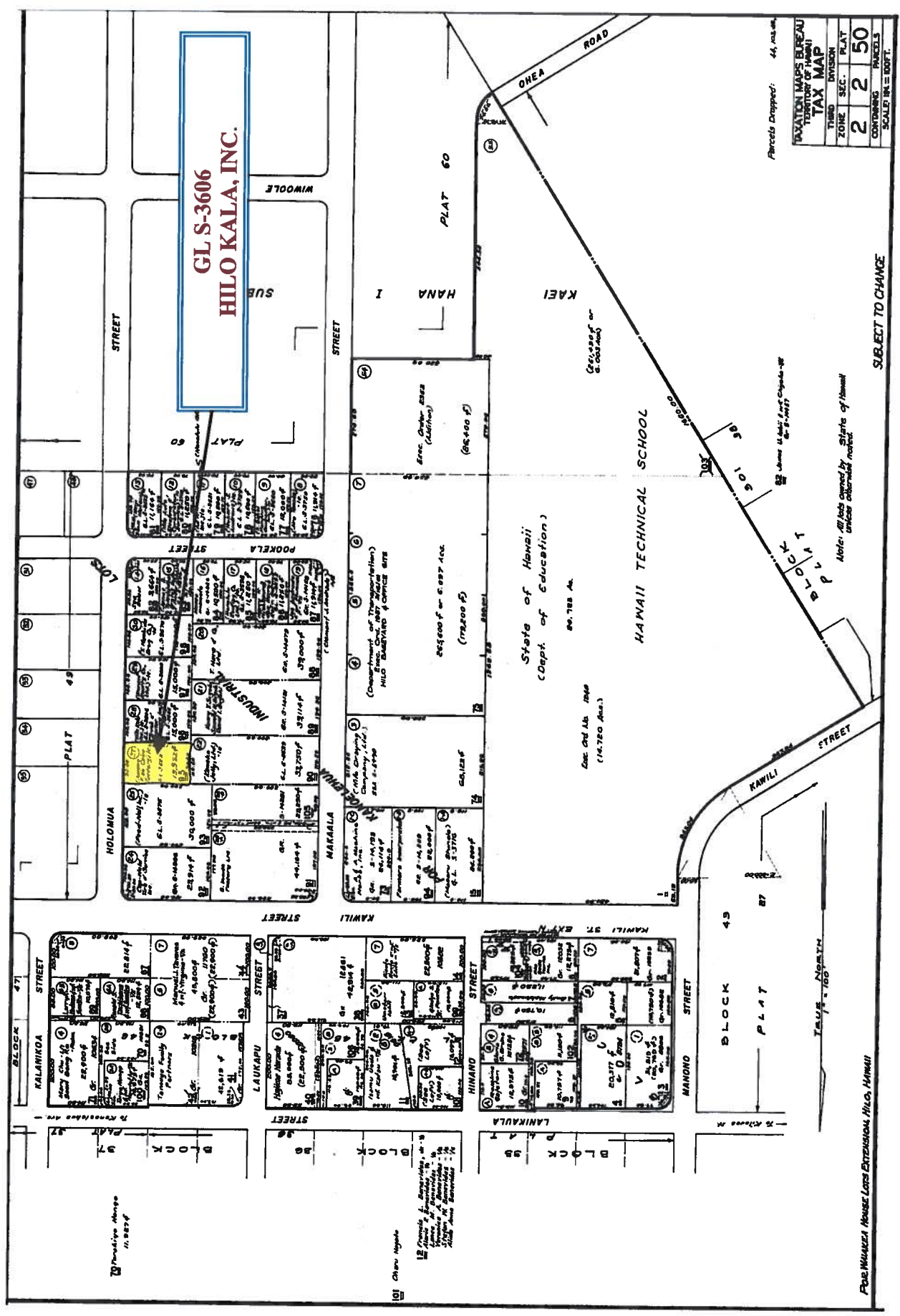
1. Authorize the cancellation of General Lease No. S-3606 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-3606 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of June 9, 2011, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-3606 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,

  
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Gordon C. Heit  
Land Agent 

APPROVED FOR SUBMITTAL:

  
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William J. Aila, Jr., Chairperson



Plots Dropped: 44, not shown

TAXATION MAPS BUREAU HAWAII			
TAX MAP			
TRIM	ZONE	SEC.	PLAT
2	2	2	50

CONV. NO. 1007  
SCALE 1" = 100 FT.

FOR HAWAII HOUSE LOTS EXTENSION HILO, HAWAII